IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRD DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO: 1486 of 2005

Between:

P.E.Khan, S/o.P.A.Kharim Khan, Conductor
E.No.404041, R/o.Vali Saheb Road,
Kadiri, Ananthapur District.

... PETITIONER

AND

1 The Depot Manager, APSRTC, Kadiri Depot, Kadiri, Ananthapur

District.
2 The Divisional Manager, APSRTC, Hindupur Division, Hindupur,

Ananthapur District
3 The Regional Manager, APSRTC, Ananthapur

Region,Ananthapur.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ order or direction more particularly one in the nature of writ of Mandamus or any other appropriate writ, declaring the proceedings no.P2/118(2)/03-KDR dated: 2-6-2003 of the 1st respondent the proceedings No.PA/19(135)/03 DVM.A dt.6-11-03 of the 2nd respondent and proceedings No.PA/675(26)/04 RM.A dt:31-5-2004 of the 3rd respondent as illegal, arbitrary, inviolation of principles of natural justice and inviolation of Art. 14 and 21 of the Constitution of India, and consequentially direct the respondents to add two annual increments to the pay of the petitioner and pass such other or further order as this Hon'ble court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR. S.SURENDRA KUMAR

Counsel for the Respondents: MR.P.VINAYAKA SWAMY

The Court, at the admission stage, made the following:

ORDER:

This writ petition is filed seeking a Mandamus declaring the proceedings dated 02-06-2003 of the first respondent, proceedings dated 06-11-2003 of the 2nd respondent and proceedings dated 31-05-2004 of the third respondent, as illegal and arbitrary.

2. Heard the learned counsel for the petitioner and the learned Standing Counsel appearing on behalf of the respondents.

3. It is the case of the petitioner that he was appointed as Conductor in the respondent Corporation on 01-02-1992. While so, he was issued a chargesheet dated 13-02-2003 framing certain charges against him. It is stated that regular departmental enquiry was conducted against the petitioner. In the departmental enquiry, the Enquiry Officer found the charges levelled against the petitioner are proved. Thereafter, a show cause notice was issued and the punishment of deferment of annual increment for a period of two years, which shall have the effect of postponement of future increments, was awarded to the petitioner. Challenging the same, an appeal was preferred before the competent authority and thereafter a review petition was also filed, which were dismissed.

4. Learned counsel for the petitioner contends that imposition of major penalty on the proved misconduct is disproportionate to the punishment and therefore he prays to modify the punishment awarded.

5. On the other hand, learned Standing Counsel appearing on behalf of the respondent contends that the punishment is in consonance with the proved misconduct and there are no grounds to interfere with the order of punishment.

6. The charge levelled against the petitioner is that he absconded from duties from 11.15 hours to 12.00 hours at Kadiri Bus Station and also from 08.15 hours to 09.05 hours at Bagepalli causing inconvenience to the passengers. It is the case of the petitioner that due to ill health, he went to toilet and in that process five minutes delay occurred and there was no negligence and intentional absconding. On one occasion, petitioner was absent from duty for about 45 minutes and on another occasion, for about 50 minutes. For that, the punishment of deferment of annual increment with cumulative effect, having the effect of postponement of future increments, was awarded. Under those circumstances, this Court is of the opinion that the punishment can be modified.

7. In the result, the writ petition is allowed modifying the punishment of deferment of annual increments for a period of two years, without cumulative effect.

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K.C. BHANU, J

February 3, 2005

MRR

Copy to:

1 The Depot Manager, APSRTC, Kadiri Depot, Kadiri, Ananthapur District.
2 The Divisional Manager, APSRTC, Hindupur Division, Hindupur, Ananthapur District
3 The Regional Manager, APSRTC, Ananthapur Region,Ananthapur.
4 Two C.D. Copies.